IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIRST DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 6839 of 2005

Between:

D. Narasimhulu, S/o. Veeranarappa, Beside Syndicate Bank, Muddanuru, Kadapa District, Presently residing at Plot No. 56, Jayanagar Colony, Near CPI Office, Bairagapatteda, Tirupathi.

..... PETITIONER

AND

1 State of Andhra Pradesh, Rep. by its Principal Secretary, Panchayat Raj Department, Secretariat, Hyderabad.
2 The Joint Collector, Kadapa, Kadapa District.
3 The District Panchayat officer, Kadapa, Kadapa District.
4 The Executive Officer/Panchayat Secretary, Muddanuru-Major Grampanchayat, Muddanuru, Kadapa District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of WRIT OF MANDAMUS declaring the action of the respondents in not responding on petitioner's representations, dt. 18-1-2002, 15-4-2002, 15-4-2003, and 24-12-2004 to make good of loss sustained by him due to non-collection of the toll gate fee pursuant to Proc. FFWP/PDS/1(1)/2001-02 issued by the 2nd respondent, dt. 24-12-2001 is illegal irregular and violative of Article 14 and 21 of Constitution of India and also contrary to the provisions of A.P. Panchayat Raj Act and consequently direct the respondents to consider and pass appropriate orders on petitioner's representations dt. 18-1-2002, 15-4-2003, and 24-12-2004 made to the 2nd respondent and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner : MR. SATYANARAYANA NIMMAGADDA

Counsel for the Respondents : GP FOR PANCHAYAT RAJ & RURAL DEV.

The Court at the stage of admission made the following :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.6839 OF 2005

ORDER :

The petitioner claims to be a licensee for collecting toll fee on the vehicles within the jurisdiction of Muddanur Major Gram Panchayat, Kadapa district under an Agreement dated 22-03-2001. It appears that by virtue of the order passed by the 2nd respondent – Joint Collector, dated 24-12-2001, the owners of the lorries supplying Rice under Food for Work Programme and various Schemes stopped from paying toll gate fee to Panchayat and consequently the petitioner sustained loss of Rs.50,000/-. In the circumstances, the petitioner made representations dated 18-1-2002, 15-4-2003 and 24-12-2004 to the 2nd respondent requesting to refund the said amount of Rs.50,000/- to make good the loss sustained by him. It is alleged that the 2nd respondent has failed to consider his representations and the amount has not been paid to him so far. Hence, this writ petition is filed seeking a Writ of Mandamus declaring the alleged inaction on the part of the 2nd respondent as arbitrary and illegal.

On the basis of the pleadings and other material on record, it is evident that the matter does not involve enforcement of any statutory obligation on the part of the 2nd respondent. The plea of the petitioner that he suffered loss due to the orders passed by the 2nd respondent dated 24-12-2001 is a matter which requires to establish by

adducing necessary evidence and for redressal of such grievance, the petitioner ought to have availed the common law remedy. This writ petition under Article 226 of the Constitution of India is misconceived and accordingly the same is dismissed. It is made clear that this shall not preclude the petitioner to work out the appropriate remedy as available under law if he so chooses.

The Writ Petition is accordingly disposed of. No costs.

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1st April, 2005.

Gbs

To

1 The Principal Secretary, State of Andhra Pradesh,
Panchayat Raj Department, Secretariat, Hyderabad.
2 The Joint Collector, Kadapa, Kadapa District.
3 The District Panchayat officer, Kadapa, Kadapa District.

4 The Executive Officer/Panchayat Secretary, Muddanuru-Major Grampanchayat, Muddanuru, Kadapa District.

5. Two CCs to G.P. for Panchayat Raj & Rural Development, High Court of AP Bldgs, Hyderabad (OUT).

6. Two CD copies.